

# Combating sabotage of submarine cables and pipelines at sea, in a context of grey zone conflict

*Frederik Rogiers*

*Academic Assistant and PhD Researcher at Ghent University*



## Estonia says Chinese ship is main focus of probe into cables damage

By Andrius Sytas and Essi Lehto

November 30, 2023 1:15 PM GMT+1 - Updated a year ago



## New Balticconnector pipeline damage facts come to light

NEWS

Anne Pihl  
25.09.2024 11:22



The Newnew Polar Bear in Arkhangeisk, seen missing its portside anchor. Source: Vitaly V/ fleetphoto.ru/Yle

Nearly a year ago, Estonia and Finland were both stunned by the news that the Balticconnector gas pipeline linking the two countries had ruptured, while nearby communication cables had also been damaged.



## Beijing admits Hong Kong-flagged ship destroyed key Baltic gas pipeline 'by accident'

Beijing passed on findings to Finland and Estonia which are conducting criminal probes into incident involving NewNew Polar Bear: sources





## Bulker Accused of Cutting Baltic Cables May Have Tried Once Before



Yi Peng 3 passes under the Great Belt Bridge (Storebaelt Bridge webcam)

PUBLISHED DEC 18, 2024 11:33 PM BY THE MARITIME EXECUTIVE

## Joint statement by the Foreign Ministers of Finland and Germany on the severed undersea cable in the Baltic Sea

19.12.2024 - Press release

## Baltic Sea Cable Damage Linked to YI PENG 3; Sabotage Suspected

Last updated on 29 Nov 2024 • Published 29 Nov 2024 • 3 min read

 **Raghib Raza**  
Senior Editor

Share  
  

Swedish authorities found in an investigation that the Chinese-flagged merchant vessel YI PENG 3 dragging anchor for more than 100 miles was the cause of undersea optic cables being severed. As of now, the vessel YI PENG 3 is suspected of sabotage of two undersea optic cables in the Baltic Sea.



Bulk carrier YI PENG 3, image credit: Hans Berkenhoff

## Swedish Police finally board Yi Peng 3 after cable cutting incident earlier in November

INCIDENTS AT SEA | NEWS

Published 22 December 2024

Written by **Chris Woodhams**

*In a maritime incident that has heightened international scrutiny, the Chinese bulk carrier Yi Peng 3 is under investigation for allegedly damaging undersea fibre-optic cables in the Baltic Sea. The breaches, which occurred in mid-November 2024, disrupted critical communication links between Finland, Germany, Sweden, and Lithuania.*



## Report: U.S. is Convinced That Eagle S Cable Incident Was Accidental



Eagle S's lost port anchor, retrieved and lowered to the deck of a Swedish salvage ship (Finnish Border Guard)

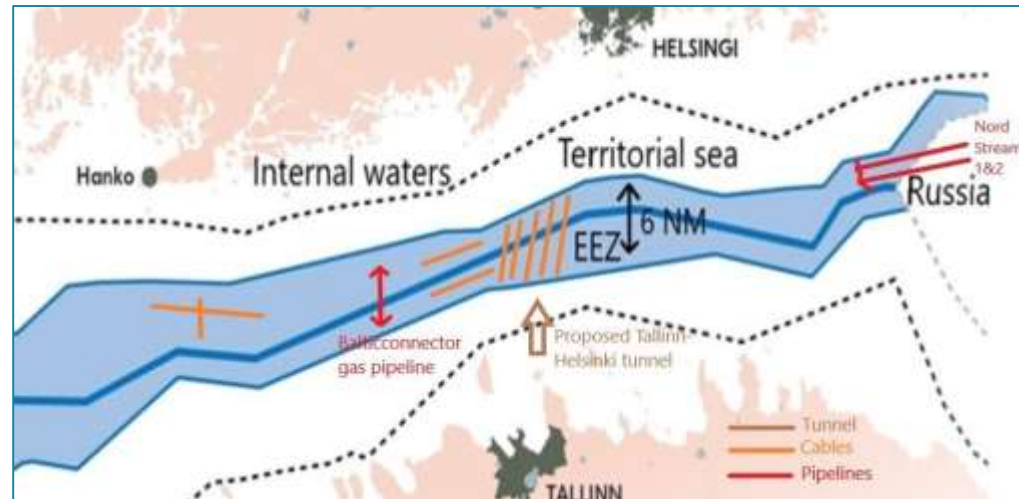
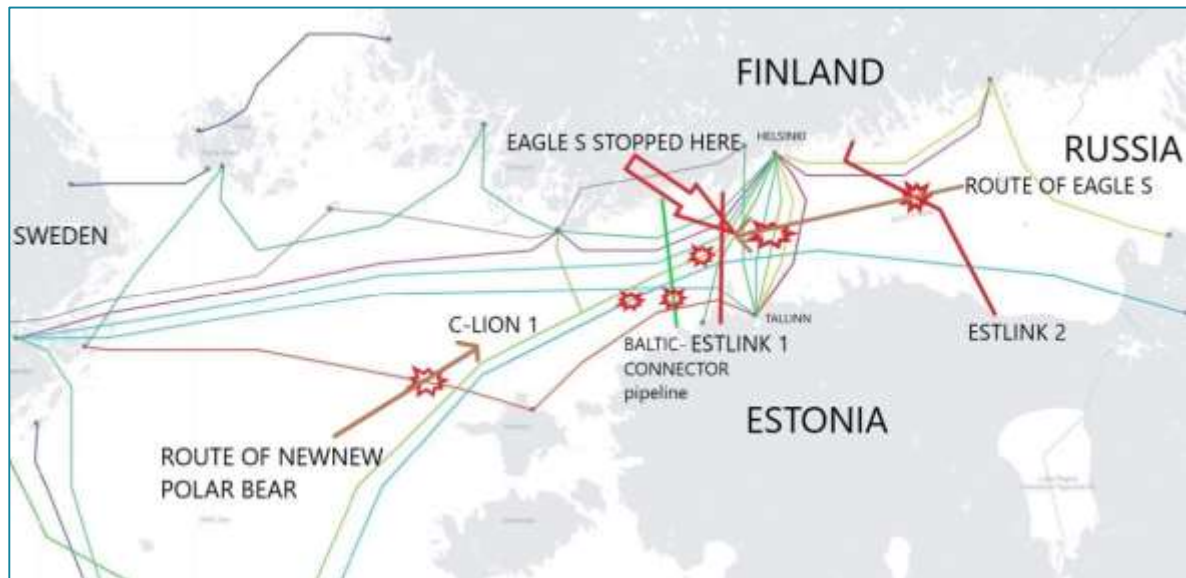
## Finland Bans a Ninth Member of the Crew of the Eagle S From Leaving the Country

Last updated on 10 Jan, 09:00 • Published 14 Jan, 06:38 • 2 min read

 Raghib Raza  
Senior Editor

On 13th January, Finland placed a travel ban on a ninth member of the crew of the EAGLE S. The EAGLE S is the vessel that has been implicated in the 25th December incident of multiple subsea cables being damaged in the Baltic Sea.

Share  

## Russia-linked cable-cutting tanker seized by Finland 'was loaded with spying equipment'

Listening equipment was placed on Eagle S and related tanker Swiftsea Rider to monitor Nato naval and aircraft activities, Lloyd's List was told





Photo: Matti Purni/Office of the President of the Republic of Finland

Environ / Ajankohtaista / ...

## Joint Statement of the Baltic Sea NATO Allies Summit

POLICY AND LEGISLATION | Publication 21 February 2025

## Joint Communication to strengthen the security and resilience of submarine cables

The security of the EU's submarine cable infrastructure must be significantly enhanced. The Joint communication presents strong actions in a whole resilience cycle approach: prevent, detect, respond and repair, and deter.

The EU must first **prevent** disruptive incidents and increase its resilience against the threats and vulnerabilities of submarine cable infrastructures.

It must also increase its **detection** capacity to be in position to identify and anticipate threats as early as possible.

When an incident occurs, the EU must increase its capacity to **respond** in a coordinated way and in solidarity with the Member States most affected. In particular, the EU must develop the right capacities to recover as quickly as possible from any incident.

Finally, the EU must enhance its **deterrence** posture. It will act to protect the security of critical maritime infrastructure and hold malicious actors accountable, including actions against the 'shadow fleet'.



© Gettyimages-Alexi Gki

### Related topics

[Digital connectivity](#) [Cybersecurity](#)

### Downloads



Joint Communication to strengthen the security and resilience of submarine cables

[Download](#)

# NATO launches 'Baltic Sentry' to increase critical infrastructure security

14 Jan. 2025 - | Last updated: 14 Jan. 2025 12:08

[English](#) [French](#) [Russian](#) [Ukrainian](#)

f  
x  
in

NATO Secretary General, Mark Rutte co-hosted a Summit of Baltic Sea Allies on Tuesday (14 January 2025), along with President Alexander Stubb of Finland and Prime Minister Kristen Michal of Estonia.



At the meeting in Helsinki, Mr Rutte announced the launch of a new military activity by NATO to strengthen the protection of critical infrastructure. "Baltic Sentry" will enhance NATO's military presence in the Baltic Sea and improve Allies' ability to respond to destabilizing acts.



A blurred office scene with a teal overlay. In the background, several people are visible, some sitting at desks and others standing, engaged in work. The overall atmosphere is professional and collaborative.

**Let's get creative**

# Let's get creative ...

- Before the damage:
  - The right to lay and maintain cables under the 1982 LOSC
  - Necessity
- After the damage:
  - The 1884 Paris Convention
  - Principle of Prevention and due diligence (responsibility of States)





# The 1982 Law of the Sea Convention:

The right to lay and “maintain” cables and pipelines ...



# The EEZ and High Seas

## Article 58

### *Rights and duties of other States in the exclusive economic zone*

1. In the exclusive economic zone, all States, whether coastal or land-locked, enjoy, subject to the relevant provisions of this Convention, the freedoms referred to in article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with the other provisions of this Convention.

2. Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part.

3. In exercising their rights and performing their duties under this Convention in the exclusive economic zone, States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this Part.

## Article 79

### *Submarine cables and pipelines on the continental shelf*

1. All States are entitled to lay submarine cables and pipelines on the continental shelf, in accordance with the provisions of this article.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention, reduction and control of pollution from pipelines, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. The delineation of the course for the laying of such pipelines on the continental shelf is subject to the consent of the coastal State.

4. Nothing in this Part affects the right of the coastal State to establish conditions for cables or pipelines entering its territory or territorial sea, or its jurisdiction over cables and pipelines constructed or used in connection with the exploration of its continental shelf or exploitation of its resources or the operations of artificial islands, installations and structures under its jurisdiction.

5. When laying submarine cables or pipelines, States shall have due regard to cables or pipelines already in position. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

## Article 87

### *Freedom of the high seas*

1. The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, *inter alia*, both for coastal and land-locked States:

- (a) freedom of navigation;
- (b) freedom of overflight;
- (c) freedom to lay submarine cables and pipelines, subject to Part VI;
- (d) freedom to construct artificial islands and other installations permitted under international law, subject to Part VI;
- (e) freedom of fishing, subject to the conditions laid down in section 2;
- (f) freedom of scientific research, subject to Parts VI and XIII.

2. These freedoms shall be exercised by all States with due regard for the interests of other States in their exercise of the freedom of the high seas, and also with due regard for the rights under this Convention with respect to activities in the Area.

## Article 112

### *Right to lay submarine cables and pipelines*

1. All States are entitled to lay submarine cables and pipelines on the bed of the high seas beyond the continental shelf.
2. Article 79, paragraph 5, applies to such cables and pipelines.



# Interpreting the LOSC

- Interpretation in good faith and in light of the treaty's object and purpose
- Right to lay submarine cables
  - ... > Right to operate and maintain them?
  - ... > Right to protect them?
- Usefulness limited in practices ...

# **The Original Treaty:**

**The 1884 Paris Telegraph Convention**



# 1884 Telegraph Convention

## Art. X

[...] When the officers commanding the ships of war, or ships specially commissioned for the purpose by one of the High Contracting Parties, have reason to believe that an infraction of the measures provided for in the present Convention has been committed by a vessel other than a vessel of war, they may demand from the captain or master the production of the official documents proving the nationality of the said vessel. The fact of such document having been exhibited shall then be endorsed upon it immediately. Further, formal statements of the facts may be prepared by the said officers, whatever may be the nationality of the vessel incriminated [...]





**In times of conflict ...**

# Jus ad bellum (theory)

- Arts. 2 (4) iuncto 51 UN Charter
- “Most grave uses of force” – scale & effects (Nicaragua)
- Cumulative application (Oil Platforms)
- Challenge of Attribution? (by whom ... against whom?)





# Jus ad bellum (practice)

- Attribution – TS v. CS/EEZ
- Transboundary infrastructure
- Landing State – State of nationality – zone State
- Single vessel v. single cable
- Effect of cutting a cable > country specific

# Jus in bello (through history)

- Spanish-American War
- WWI and WWII
- Institute for International Law 1902 and 1913  
Oxford manual: Belligerents v.
- US Naval War College 1903

## How Britain pioneered cable-cutting in World War One

15 December 2017

By Gordon Corera, Security correspondent, @gordincorera

Share



The UK's most senior military officer has warned of a new threat posed by Russia to communications and internet cables that run under the sea.

# Jus in bello (today)

- 1995 San Remo Manual – art. 37 and the questions of “to take care” & “exclusively serving belligerents”
- Tallinn 2.0 – update to 1907 Hague Regulations
- 2020 Oslo Manual on Select Topics of the Law of Armed conflict
- From bipolar to multipolar cables
- Necessity - Proportionality







**To conclude ...**

# Conclusion

- Necessity and the essential interests of the State
- 1982 Law of the Sea Convention: The right to lay, operate, maintain, monitor and protect submarine cables
- 1884 Convention – one time only?
- Right of self-defense? – scale and effects & attribution
- IHL – Historical v. modern approach (necessity and proportionality > challenges)



# Thank you for your attention

*Frederik Rogiers*

*Academic Assistant and PhD Researcher at Ghent Uni*

